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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,560	04/13/2001	Feng Xu	6122.500-US	3855
25907	7590	07/06/2004	EXAMINER	
NOVOZYMES BIOTECH, INC.			CORBIN, ARTHUR L	
1445 DREW AVE			ART UNIT	
DAVIS, CA 95616			PAPER NUMBER	
			1761	

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/834,560

Applicant(s)

Xu ET AL

Examiner

ARTHUR L. GIBLIN

Group Art Unit

1761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 5-24-04
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 2, 4-8, 10-14, 16, 17, 20, 22, 24, 25, 35, 39-43 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 2, 4-8, 10-14, 16, 17, 20, 22, 24, 25, 35, 39-43 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some* ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 42 and 43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 42 and 43 are improper dependent claims since each depends upon a cancelled claim.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4-8, 10, 11, 14, 16, 17, 20, 22, 24, 25, 35 and 39-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita in view of Fan et al.

Applicant is referred to the reasoning set forth in paragraph Nos. 6, 7 and 9, Paper No. Paper No. 011604. Further, finding the optimum amount of the enzyme (claims 35 and 41-43) would require nothing more than routine experimentation by one reasonably skilled in this art.

5. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita in view of Fan et al as applied to claims 1, 2, 4-8, 10, 11, 14, 16, 17, 20, 22, 24, 25, 35 and 39-43 above, and further in view of Judkins et al, Rogols et al or Stevens et al.

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Applicant is referred to the reasoning set forth in paragraph No. 8, Paper No. 011604.

6. Claims 1, 2, 4, 5, 10, 11, 14, 16, 17, 20, 22, 24, 25, 35 and 39-43 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Roan (claim 1) in view of Fan et al.

Applicant is referred to the reasoning set forth in paragraph Nos. 10, 11 and 14, Paper No. 011604.

7. Claims 6-8 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Roan in view of Fan et al as applied to claims 1, 2, 4, 5, 10, 11, 14, 16, 17, 20, 22, 24, 25, 35 and 39-43 above, and further in view of Yamashita.

Applicant is referred to the reasoning set forth in paragraph No. 12, Paper No. 011604.

8. Claims 12 and 13 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Roan in view of Fan et al as applied to claims 1, 2, 4, 5, 10, 11, 14, 16, 17, 20, 22, 24, 25, 35 and 39-43 above, and further in view of Judkins et al, Rogols et al or Stevens et al.

Applicant is referred to the reasoning set forth in paragraph No. 13, Paper No. 011604.

9. Applicant's arguments filed May 24, 2004 have been fully considered but they are not persuasive. Although neither Yamashita nor Roan disclose treating potatoes with one of applicant's claimed exogenous enzymes, as applicant argues, Fan et al supports

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the fact that an exogenous enzyme, viz. pectin methylesterase, will form in situ, and thus be present, during the heating of the potatoes in either primary reference.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

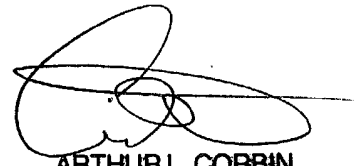
11. Any inquiry concerning this communication the examiner should be directed to Arthur L. Corbin whose telephone number is (571) 272-1399. The examiner can generally be reached on Monday--Friday from 10:30 to 8:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571)272-1398. The fax phone number for the organization where this application is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.L. Corbin/dh
July 2, 2004



ARTHUR L. CORBIN
PRIMARY EXAMINER
7-2-04